

**General Information Letter:** Response to question re deduction for wages not deducted for federal income tax purposes because included in the base for computing the Work Opportunity Credit.

February 23, 1998

Dear:

This is in response to your letter of February 5, 1998. Department rules require that the Department issue two types of letter rulings, private letter rulings (PLRs) and general information letters (GILs). For your general information we have enclosed a copy of 2 Ill. Adm. Code 1200 regarding letter rulings and other information issued by the Department.

Although you have not specifically requested either type of ruling, the nature of your questions and the information provided require that we respond with a GIL. GILs are designed to provide background information on specific topics, however, GILs are not rulings that are binding on the Department, but PLRs are binding on the Department.

In your letter you state in part as follows:

The Internal Revenue Service offers a "Work Opportunity Credit". This is available for people who are certified by the State as meeting certain criteria. The amount of the credit is then used to reduce the amount of wages paid deduction on the federal income tax return.

The Illinois income tax return starts with the ordinary income from the federal return. There does not appear to be anywhere on the Illinois income tax return to make an adjustment to allow the wages to be deducted. There also does not appear to be any allowable credit for the wages.

It seems that my client should be able to either take a deduction for the wages or have some sort of credit for the wages paid on the state return as well as the federal.

\* \* \*

Please advise me whether my client may deduct all the wages they paid, and if so, where on the return the adjustment should be made.

In response to this inquiry we direct your attention to Illinois Income Tax Act [IITA] Sec. 203(h). That statute provides as follows:

(h) Legislative intention.

Except as expressly provided by this Section there shall be no modification or limitations on the amounts of income, gain, loss or deduction taken into account in determining gross income, adjusted gross income or taxable income for federal income tax purposes for the taxable year, or in the amount of such items entering into the computation of base income and net income under this Act for such

taxable year, whether in respect of property values as of August 1, 1969 or otherwise.

There is no express Illinois subtraction modification for claiming either a credit or a deduction for wages paid in situations where the taxpayer has availed itself of the federal "Work Opportunity Credit". Nor can the Department violate IITA Sec. 203(h) by granting such an allowance absent legislative enactment providing for such a credit or deduction under such circumstances.

If your client wishes to contest the Department's position on this matter, it may of course pay the disputed amount of tax and file a claim for refund under IITA Sec. 909.

Very truly yours,

Jackson E. Donley  
Associate Counsel